

Airborne Warning And Control System_

Alternative Dispute Resolution Memorandum of Agreement Between The Department of The Air Force and Lockheed Martin Corporation

1. The Department of the Air Force (Air Force), Airborne Warning and Control Systems Program Office and Lockheed Martin Federal Systems (collectively the Parties) enter into United States and Foreign Military Sale contracts to acquire E-3, Airborne Warning and Control System CC-2E computers and upgrades. The Parties share the objective of supplying America's war fighters with technologically advanced and reliable equipment in a timely manner and at a reasonable price to promote swift, safe and successful accomplishment of the national defense mission. These existing contracts contain and future contracts will contain the "Disputes" clause FAR 52.233-1 to implement the Contract Disputes Act of 1978. However, as contemplated by FAR 32.214, the parties also recognize that Alternative Dispute Resolution (ADR) procedures involving collaborative techniques can be used as an alternative to Disputes Clause procedures in order to avoid the disruption and high cost of litigation which detracts from mission accomplishment.

1. The Parties agree that they will try to resolve all issues in controversy arising under or related to the contract by negotiation and mutual agreement at the contracting officer's level. If negotiations reach an impasse, the parties agree to use to the maximum extent feasible one or more of the ADR processes contemplated by FAR 32.2 to reduce or eliminate the need for litigation. The Parties further agree that any ADR process must be structured to allow sufficient time to exchange and analyze any information necessary to obtain and justify a settlement.

2. Consistent with FAR 33.214, in cases where the parties decide to use ADR, the parties will prepare and agree to a specific, written ADR agreement appropriate to the controversy, before the ADR process begins. The ADR agreement shall address the following (as appropriate): authorized representatives for each party; ADR techniques and processes to be utilized and procedures to be followed, methods for the exchange of information; a schedule and procedures for any discovery proceedings, including how to limit discovery/factual exchange; appointment and payment of neutrals; whether and to what extent to stay or suspend any pending litigation; possible audit requirements; confidentiality, at what point the parties will begin negotiations, and a provision for termination of the agreement.

3. If the contracting officer rejects a contractor's request to use ADR proceedings, the contracting officer shall provide the contractor a written explanation citing one or more of the conditions in 5 U.S.C. 572(b) or such other specific reasons that ADR procedures are inappropriate for the resolution of the dispute. See 41 U.S.C. 605(e) & FAR 33.214(b). In any case where a contractor rejects the government's request to use ADR proceedings, the contractor shall inform the agency in writing of the contractor's specific reasons for rejecting the request.

4. It is not the intent of the parties that this agreement alter, supplement or deviate from the terms and conditions of any contract(s) between the parties, or the legal rights and obligations of the parties set forth therein. Any changes to those contract(s) must be executed in writing by authorized contracting officials.

5. In the event either party believes a particular issue is not well-suited to ADR, or is dissatisfied with progress being made in a particular ADR proceeding, that party may, after good faith efforts to resolve the issue, elect to abandon the ADR process and proceed as otherwise provided under contract, regulation or statute. Nothing in this Agreement shall be deemed to prevent either party from preserving and exercising its legal rights and remedies during the ADR process.

David R. Lodolillo
Deputy System Program Director, ANACS

20 Aug 99
Date

Russell S. Reed
Program Office Director of Contracts

18 Aug 99
Date

Deanna J. Hall
Contractor Program Director

8/11/99
Date

[Signature]
Contractor Director of Contracts

8/11/99
Date